

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES

PCC HVAC, LLC D/B/A  
PROFESSIONAL CLIMATE CONTROL

and

Case 22-CA-135826

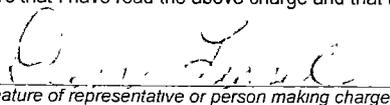
PLUMBERS & PIPEFITTERS LOCAL UNION #9, UA

OPPOSITION TO RESPONDENT'S PETITION TO REVOKE *SUBPOENA DUCES*  
*TECUM* ON BEHALF OF THE GENERAL COUNSEL

**EXHIBIT A**

INTERNET  
FORM NLRB-501  
(2-08)UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**CHARGE AGAINST EMPLOYER****DO NOT WRITE IN THIS SPACE**Case  
22-CA-135826Date Filed  
8/29/2014**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer PCC HVAC dba Professional Climate Control	b. Tel. No. (973) 378-9500 c. Cell No. f. Fax No. (973) 378-9553 g. e-Mail h. Number of workers employed 7
d. Address (Street, city, state, and ZIP code) 8E Great Meadow Lane East Hanover, NJ 07936	e. Employer Representative Lee Havemann (Owner)
i. Type of Establishment (factory, mine, wholesaler, etc.) Mechanical Contractor	j. Identify principal product or service HVAC Repair, Service and Installation
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)  On or about August 29, 2014 the above named employer and its representatives discharged Ken Draper and Javier Santiago because of their activities and affiliation with the United Association of Plumbers and Pipefitters UA Local 9. By their acts, the above named employer has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Plumbers and Pipefitters Local Union #9	
4a. Address (Street and number, city, state, and ZIP code) 2 Iron Ore Road, Englishtown, NJ 07726	4b. Tel. No. (609) 577-7157 4c. Cell No. Same 4d. Fax No. (732) 792-1144 4e. e-Mail dfeasel@ualocal9.org
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) United Association of Plumbers and Apprentices of the Plumbing and Pipefitting Industry of the US and Canada	
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief	
By  (signature of representative or person making charge)	Dean Feasel (Print/type name and title or office, if any)
2 Iron Ore Road, Englishtown, NJ 07726 Address	
Tel. No. Same as above Office, if any, Cell No. Fax No. e-Mail 8/29/14 (date)	

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)****PRIVACY ACT STATEMENT**Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
NOTICE

Case 22-CA-135826

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements *will not be granted* unless good and sufficient grounds are shown *and* the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in *detail*;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

HOWARD A. VEX, ESQ.  
2001 ROUTE 46, STE 310  
PARSIPANNY, NJ 07054

DEAN FEASEL , ORGANIZER  
PLUMBERS AND PIPEFITTERS LOCAL  
UNION #9  
2 IRON ORE ROAD  
ENGLISHTOWN, NJ 07726

LEE HAVENMANN , PRESIDENT  
PCC HVAC D/B/A PROFESSIONAL  
CLIMATE CONTROL  
8E GREAT MEADOW LANE  
EAST HANOVER, NJ 07936

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**PCC HVAC D/B/A PROFESSIONAL CLIMATE CONTROL**

Charged Party

and

**PLUMBERS AND PIPEFITTERS LOCAL UNION #9**

Charging Party

**Case 22-CA-135826**

**AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, state under oath that on September 3, 2014, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

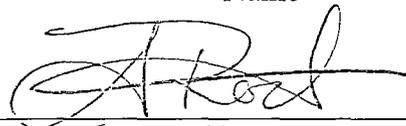
LEE HAVENMANN, OWNER  
PCC HVAC d/b/a PROFESSIONAL  
CLIMATE CONTROL  
8E GREAT MEADOW LANE  
EAST HANOVER, NJ 07936

September 3, 2014

\_\_\_\_\_  
Date

ANETT RODRIGUES , Designated Agent  
of NLRB

\_\_\_\_\_  
Name



\_\_\_\_\_  
Signature

# **EXHIBIT B**

# **EXHIBIT B**

Form NLRB - 501 (2-08)

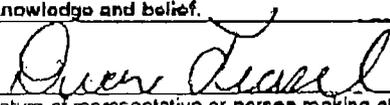
UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**FIRST AMENDED CHARGE AGAINST EMPLOYER**

INSTRUCTIONS

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
22-CA-135826	NOV 12, 2014

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

1 EMPLOYER AGAINST WHOM CHARGE IS BROUGHT		
a. Name of Employer PCC HVAC d/b/a Professional Climate Control		b. Tel. No. (973) 378-9500
		c. Cell No.
d. Address (street, city, state ZIP code) 8E Great Meadow Lane East Hanover, NJ 07936	e. Employer Representative Lee Havemann, President	f. Fax No. (973) 378-9553
		g. e-Mail
		h. Dispute Location (City and State) East Hanover, NJ
i. Type of Establishment (factory, nursing home, hotel) Mechanical contractor	j. Principal Product or Service HVAC repair, service and installation	k. Number of workers at dispute location 7
1 The above-named employer has engaged in and is engaging unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)		
SEE RIDER		
3. Full name of party filing charge (if labor organization, give full name, including local name and number) Plumbers and Pipefitters Local Union #9		
4a. Address (street and number, city, state, and ZIP code) 2 Iron Ore Road Englishtown, NJ 07726		4b. Tel. No. (609) 577-7157
		4c. Cell No. same
		4d. Fax No. (732) 792-1144
		4e. e-Mail dfessel@ualocal9.org
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) United Association of Plumbers and Apprentices of the Plumbing and Pipefitting Industry of the US and Canada		
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. Same as above
By: 	Dean Feasel, HVACR Organizer	Office, if any, Cell No.
(signature of representative or person making charge)	Print Name and Title	Fax No.
Address: see above	Date: 11/12/14	e-Mail

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

PCC HVAC d/b/a Professional Climate Control

22-CA-135826

RIDER

On or about August 20, 2014, at its East Hanover, NJ facility, it, by its President, Lee Havemann, directed its employees not to join or assist United Association of Plumbers and Pipefitters UA Local 9.

On or about August 21, 2014, at its East Hanover, NJ facility, it, by its President, Lee Havemann, made an implicit threat of unspecified reprisals to its employees if they supported United Association of Plumbers and Pipefitters UA Local 9.

On or about August 21, 2014, at its East Hanover, NJ facility, it, by its President, Lee Havemann, made a threat of plant closure to its employees if they supported United Association of Plumbers and Pipefitters UA Local 9.

On or about August 25, 2014, it, by its Vice President, Julie Van Luvender, made a promise of benefits to its employees if they refrained from supporting United Association of Plumbers and Pipefitters UA Local 9.

On or about August 27, 2014, the above named employer, through its officers, agents and representatives required its employees sign an overbroad Confidentiality and Non-Disclosure Agreement, which limits their rights to engage in activity protected by Section 7 of the Act.

On or about August 29, 2014, the above named employer and its representatives discharged Ken Draper and Javier Santiago because of their activities and affiliation with the United Association of Plumbers and Pipefitters UA Local 9. By their acts the above named employer has interfered with, restrained and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

*Den Luvend 11/12/14*

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**PCC HVAC D/B/A PROFESSIONAL CLIMATE CONTROL**

Charged Party

and

**PLUMBERS AND PIPEFITTERS LOCAL UNION #9**

Charging Party

Case 22-CA-135826

**AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on November 13, 2014, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

LEE HAVENMANN, PRESIDENT  
PCC HVAC d/b/a PROFESSIONAL  
CLIMATE CONTROL  
8E GREAT MEADOW LANE  
EAST HANOVER, NJ 07936

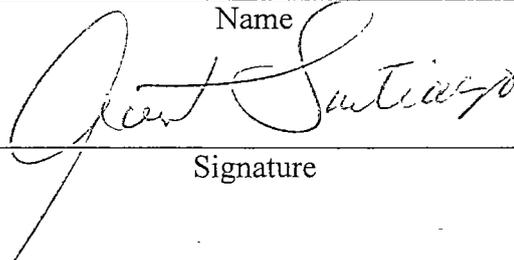
HOWARD A. VEX, ESQ.  
2001 Route 46, Ste 310  
Parsipanny, NJ 07054

November 13, 2014

Date

ALBERT SANTIAGO, Designated Agent  
of NLRB

Name



Signature

# **EXHIBIT C**

# **EXHIBIT C**

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22

PCC HVAC, LLC D/B/A  
PROFESSIONAL CLIMATE CONTROL

and

Case 22-CA-135826

PLUMBERS & PIPEFITTERS LOCAL UNION #9, UA

**COMPLAINT AND NOTICE OF HEARING**

This Complaint and Notice of Hearing is based on a charge filed by Plumbers & Pipefitters Local Union #9, UA, (the Union). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that PCC HVAC, d/b/a Professional Climate Control (Respondent, whose correct name is PCC HVAC, LLC d/b/a Professional Climate Control) has violated the Act as described below.

1. The charge in this proceeding was filed by the Union on August 29, 2014 and a copy was served on Respondent by U.S. mail on September 3, 2014.

2. The first amended charge in this proceeding was filed by the Union on November 12, 2014 and a copy was served on Respondent by U.S. mail on November 13, 2014.

3. Since about May 2014, at which time Respondent commenced its operations, and continuing to the present, Respondent, has been a limited liability company, with an office and place of business in East Hanover, New Jersey (Respondent's facility), and has been engaged in the maintenance, service, installation and repair of heating, ventilation and cooling equipment.

4. Since commencing operations about May 2014, Respondent provided services valued in excess of \$50,000 for HVAC repair, maintenance, service and installation for enterprises within the State of New Jersey including public schools, county and municipal governments, including the Newark Board of Education, located in Newark, New Jersey, an enterprise directly engaged in interstate commerce.

5. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

6. At all material times, the Union has been a labor organization within the meaning of Section 2(5) of the Act.

7. At all material times, Lee Havemann held the position of Respondent's President and has been a supervisor of Respondent within the meaning of Section 2(11) of the Act and an agent of Respondent within the meaning of Section 2(13) of the Act.

8. At all material times, Julie Van Luvender held the position of Respondent's Vice President and has been an agent of Respondent within the meaning of Section 2(13) of the Act.

9. Respondent, by Lee Havemann:

(a) About August 20, 2014, at Respondent's facility, directed its employees not to join or assist the Union.

(b) About August 20, 2014, at Respondent's facility, unlawfully polled employees by asking them to raise their hands if they wished to speak with the Union.

(c) About August 21, 2014, at Respondent's facility, made an implicit threat of unspecified reprisals to its employees if they supported the Union.

(d) About August 21, 2014, at Respondent's facility, made a threat of plant closure to its employees if they supported the Union.

10. About August 25, 2014, Respondent, by Julie Van Luvender, at Respondent's facility, promised its employees that they would receive pension benefits if they refrained from supporting the Union.

11. About August 27, 2014, Respondent, through its officers, agents and representatives, required its employees sign an overbroad Confidentiality and Non-Disclosure Agreement, which limits their rights to engage in activity protected by Section 7 of the Act.

12. Respondent required its employees sign the Confidentiality and Non-Disclosure Agreement described above in paragraph 11 to discourage its employees from joining and assisting the Union or engaging in other concerted activities.

13. About August 29, 2014 Respondent selected for layoff its employees Javier Santiago and Kenneth Draper.

14. Respondent engaged in the conduct described above in paragraph 13 because the named employees of Respondent joined and assisted the Union and to discourage employees from engaging in these activities.

15. By the conduct described above in paragraphs 9 through 12, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

16. By the conduct described above in paragraphs 13 and 14, Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

17. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

As part of the remedy for the unfair labor practices alleged above in paragraphs 9 through 14, the General Counsel seeks an Order requiring that, at a meeting or meetings scheduled to ensure the widest possible attendance, Respondent's representative Lee Havemann read the Board's Notice to Employees to its employees, in English, on work time in the presence of a Board agent. Alternatively, the General Counsel seeks an order requiring that Respondent promptly have a Board agent read the Board's Notice to Employees to Respondent's employees during work time in the presence of Respondent's supervisors and agents identified above in paragraphs 7 and 8.

As part of the remedy for the unfair labor practices alleged above in paragraphs 13 and 14, the General Counsel seeks an order requiring reimbursement of amounts equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no discrimination.

The General Counsel further seeks, as part of the remedy for the allegations in paragraphs 13 and 14, that Respondent be required to submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged.

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before January 12, 2015, or postmarked on or before January 11, 2015.**

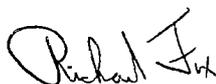
Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlr.gov](http://www.nlr.gov), click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

**NOTICE OF HEARING**

PLEASE TAKE NOTICE THAT on the 18<sup>th</sup> day of February, 2015 at 9:30 a.m. at 20 Washington Place, 5<sup>th</sup> Floor, Newark, New Jersey 07102 and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: December 29, 2014



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Richard Fox, Acting Regional Director  
National Labor Relations Board  
Region 22  
20 Washington Place, 5<sup>th</sup> Floor  
Newark, NJ 07102

## Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: [www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules\\_and\\_regs\\_part\\_102.pdf](http://www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf).

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at [www.nlr.gov](http://www.nlr.gov), click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

**Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement.** The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

### I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

### II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in

**evidence.** If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

### **III. AFTER THE HEARING**

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 22

*Maureen  
(RA key)*

PCC HVAC, LLC D/B/A  
PROFESSIONAL CLIMATE CONTROL

and

Case 22-CA-135826

PLUMBERS AND PIPEFITTERS LOCAL UNION  
#9, UA

**AFFIDAVIT OF SERVICE OF: Complaint and Notice of Hearing (with forms NLRB-4338 and NLRB-4668 attached)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on **December 29, 2014**, I served the above-entitled document(s) by **certified or regular mail**, as noted below, upon the following persons, addressed to them at the following addresses:

**CERTIFIED MAIL**

HOWARD A. VEX, ESQ.  
2001 ROUTE 46, STE 310  
PARSIPANNY, NJ 07054

DEAN FEASEL , ORGANIZER  
PLUMBERS AND PIPEFITTERS LOCAL  
UNION #9  
2 IRON ORE ROAD  
ENGLISHTOWN, NJ 07726

LEE HAVENMANN , PRESIDENT  
PCC HVAC D/B/A PROFESSIONAL  
CLIMATE CONTROL  
8E GREAT MEADOW LANE  
EAST HANOVER, NJ 07936

December 29, 2014

Date

*Glenda Freeman*  
Enter NAME, Designated Agent of NLRB

Name

*Glenda Freeman*

Signature

7004 2890 0001 4944 6510

7004 2890 0001 4944 7555

7004 2890 0001 4944 6350

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to: \_\_\_\_\_

4a. Article Number: **7004 2890 0001 4944 6350**

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address

2.  Restricted Delivery

Consult postmaster for details.

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to: \_\_\_\_\_

4a. Article Number: **7004 2890 0001 4944 7555**

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address

2.  Restricted Delivery

Consult postmaster for details.

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to: \_\_\_\_\_

4a. Article Number: **7004 2890 0001 4944 6510**

I also wish to receive the following services (for an extra fee):

1.  Addressee's Address

2.  Restricted Delivery

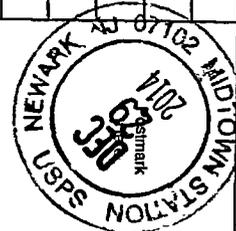
Consult postmaster for details.

PS Form 3800, June 2002

See Reverse for Instructions

Street/PO Box or Post Office Name: #9  
 DEAN FEASEL ORGANIZER  
 ENGLISHTOWN, NJ 07726

Postage	\$
Certified Fee	\$
Return Receipt Fee (Endorsement Required)	\$
Restricted Delivery Fee (Endorsement Required)	\$
Total Postage & Fees	\$



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Is your RETURN ADDRESS completed on the reverse side?

HOWARD A. VEX, ESQ

2001 ROUTE 46, STE. 310

PARSIPPANY, NJ 07054

5. Received By: (Print Name) *Jessie Pod.*

6. Signature: (Addressee or Agent) *[Signature]*

4b. Service Type

Registered  Certified

Express Mail  Insured

Return Receipt for Merchandise  COD

7. Date of Delivery

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt

# **EXHIBIT D**

# **EXHIBIT D**

Howard A Vex, Esq. (N.J. Bar No.: 017731991)

**VEX & GAGE, LLC**

Waterview Plaza

2001 Route 46, Suite 310

Parsippany, New Jersey 07054

(973) 402-4285

*Attorneys for PCC HVAC, LLC d/b/a*

*Professional Climate Control*

---

PCC HVAC, LLC d/b/a	:	UNITED STATES OF AMERICA
PROFESSIONAL CLIMATE CONTROL	:	NATIONAL LABOR RELATIONS BOARD
	:	REGION 22
	:	
and	:	Case 22-CA-135826
	:	
PLUMBERS & PIPEFITTERS	:	
LOCAL UNION #9, UA	:	

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**ANSWER AND  
AFFITMATIVE DEFENSES**

This Answer and Affirmative Defenses has been filed on behalf of PCC HVAC, LLC d/b/a Professional Climate Control (hereafter "PCC") in response to the Complaint and Notice of Hearing, dated December 29, 2014, and issued by the Acting Regional Director of Region 22 of the National Labor Relations Board. Respondent PCC's answers to the assertions made in the December 29, 2014 Complaint are as follows:

1. PCC admits receipt of service of the initial charge in early September of 2014, but lacks sufficient knowledge to ether admit or deny the remaining factual allegations.

2. PCC admits receipt of service of the amended charge in mid November of 2014, but lacks sufficient knowledge to ether admit or deny the remaining factual allegations.

3. PCC admits these allegations.

4. PCC admits it commenced operations in May of 2014 and that it has provided services valued in excess of \$50,000 for the services and types of customers alleged. However, PCC leaves the Board to its proofs to establish that PCC or the Newark Board of Education are enterprises engaged in interstate commerce as required by the Act.

5. PCC denies this allegation and leaves the Board to its proofs.

6. PCC lacks sufficient knowledge to either admit or deny these factual allegations.

7. PCC admits that Lee Havemann has served as President of PCC since May of 2014 and that he had supervisor authority as defined by the Act, but leaves the Board to its proofs as to whether PCC has sufficient contacts with interstate commerce to justify application of the Act in this dispute.

8. PCC admits that Julie Van Luvender has served as Vice President of PCC since May of 2014, but denies that she had supervisor authority as defined by the Act, and further leaves the Board to its proofs as to whether PCC has sufficient contacts with interstate commerce to justify application of the Act in this dispute.

9a. PCC denies this allegation.

9b. The alleged "polling of employees" has been asserted without considering all related facts and, thus, mischaracterizes PCC's conduct as a violation of the Act. PCC therefore denies this allegation as stated, and leaves the Board to its proofs.

9c. PCC denies this allegation.

9d. PCC denies this allegation.

10. PCC denies this allegation.

11. PCC denies this allegation.

12. PCC denies this allegation.

13. PCC admits this allegation. Moreover, as established during the Board's investigation process, Javier Santiago was an apprentice and paid at a rate of about one half that of the other technicians. Unfortunately, it was learned that the prevailing wage project he was assigned to had no "apprentice rate" available. As a result, Mr. Santiago was promptly terminated because PCC could not afford to pay MR. Santiago the full journeyman rate (double) for his services as an inexperienced apprentice. With respect to Kenneth Draper, he was terminated for theft, which has also confirmed through the company's records.

14. PCC denies this allegation.

15. PCC denies this allegation.

16. PCC denies this allegation.

17. PCC denies this allegation and leaves the Board to its proofs.

WHEREFORE, Respondent PCC seeks dismissal of the December 29, 2014 Complaint with prejudice and an award of reasonable attorney's fees and costs expended to defend this action through hearing and appeal.

Respectfully submitted,



Howard A. Vex, Esq.

*Attorneys for PCC HVAC, LLC d/b/a  
Professional Climate Control*

## **AFFIRMATIVE DEFENSES**

As Affirmative Defenses to the December 29, 2014 Complaint, Respondent PCC asserts as follows:

1. Upon information and belief, neither Respondent PCC nor its customer, the City of Newark Board of Education, were engaged in interstate commerce as defined by the Act during the relevant time frame and, as result, Respondent PCC cannot be prosecuted under the Act.

2. The allegations asserted in the Complaint do not support recovery under the Act because some or all of them fail to state a claim.

3. Some or all of the allegations in the Complaint fall outside the scope of the underlying charges.

4. The Complaint is so vague and lacking in detail that, in the absence of any meaningful discovery process, Respondent PCC is unable to understand the charges and issues to be considered at the trial.

5. Respondent PCC did not unlawfully discourage its employees from engaging in protected concerted activities.

6. Respondent PCC did not interfere with, restrain, or coerce employees in the exercise of their Section 7 rights under the Act.

7. Respondent PCC did not treat employees who engaged in protected activity any differently than employees who did not engage in protected activity.

8. Respondent PCC did not adopt company policies or enforce company policies that violated any provisions of the Act.

9. The Complainant Union's allegations provided to the Board were knowingly false or purposefully incomplete or deceptive and Respondent PCC therefore reserves the right to seek damages stemming therefrom, including but not limited to reimbursement of reasonable attorney's fees and costs through hearing and appeal.

10. Respondent denies all allegations set forth in the December 29, 2014 Complaint that were not expressly admitted.

Respectfully submitted,



Howard A. Vex, Esq.

*Attorneys for PCC HVAC, LLC d/b/a  
Professional Climate Control*

**CERTIFICATION OF SERVICE**

I certify that on this 6th day of January, 2015, this Answer was filed and served upon Richard Fox, Acting Regional Director of Region 22 of the National Labor Relations Board via the Board's electronic filing process and via first-class mail upon the following representative of the Charging Party:

Dean Feasel, Organizer  
Plumbers and Pipefitters Local Union #9  
2 Iron Ore Road  
Englishtown, New Jersey 07726

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**VEX & GAGE, LLC**

*Attorneys for PCC HVAC, LLC d/b/a  
Professional Climate Control*

By:   
Howard A. Vex, Esq.

**EXHIBIT E**

**EXHIBIT E**

Form NLRB - 501 (2-08)

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

**SECOND AMENDED CHARGE AGAINST EMPLOYER**

INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
22-CA-135826	

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer PCC HVAC d/b/a Professional Climate Control		b. Tel. No. (973) 378-9500
		c. Cell No.
d. Address (street, city, state ZIP code) 8E Great Meadow Lane East Hanover, NJ 07936	e. Employer Representative Lee Havemann, President	f. Fax No. (973) 378-9553
		g. e-Mail
		h. Dispute Location (City and State) East Hanover, NJ
i. Type of Establishment (factory, nursing home, hotel) Mechanical contractor	j. Principal Product or Service HVAC repair, service and installation	k. Number of workers at dispute location 7

1. The above-named employer has engaged in and is engaging unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

SEE RIDER

**3. Full name of party filing charge (if labor organization, give full name, including local name and number)**

Plumbers and Pipefitters Local Union #9

4a. Address (street and number, city, state, and ZIP code) 2 Iron Ore Road Englishtown, NJ 07726	4b. Tel. No. (609) 577-7157
	4c. Cell No. same
	4d. Fax No. (732) 792-1144
	4e. e-Mail dfeasel@ualocal9.org

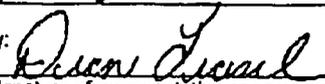
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

United Association of Plumbers and Apprentices of the Plumbing and Pipefitting Industry of the US and Canada

**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No. Same as above
Office, if any, Cell No.
Fax No.
e-Mail

By:  Dean Feasel, HVACR Organizer

(signature of representative or person making charge) Print Name and Title

Address: see above Date: 1/30/15

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

PCC HVAC d/b/a Professional Climate Control

22-CA-135826

RIDER TO SECOND AMENDED CHARGE

1. On or about August 20, 2014, at its East Hanover, NJ facility, it, by its President, Lee Havemann, polled its employees regarding their desire to communicate with United Association of Plumbers and Pipefitters UA.
2. On or about August 20, 2014, at its East Hanover, NJ facility, it, by its President, Lee Havemann, directed its employees not to join or assist United Association of Plumbers and Pipefitters UA Local 9.
3. On or about August 21, 2014, at its East Hanover, NJ facility, it, by its President, Lee Havemann, made an implicit threat of unspecified reprisals to its employees if they supported United Association of Plumbers and Pipefitters UA Local 9.
4. On or about August 21, 2014, at its East Hanover, NJ facility, it, by its President, Lee Havemann, made a threat of plant closure to its employees if they supported United Association of Plumbers and Pipefitters UA Local 9.
5. On or about August 22, 2014, at its East Hanover, NJ facility, it, by its President, Lee Havemann, polled its employees regarding their support for, and meeting with, United Association of Plumbers and Pipefitters UA, Local 9.
6. On or about August 25, 2014, it, by its Vice President, Julie Van Luvender, made a promise of benefits to its employees if they refrained from supporting United Association of Plumbers and Pipefitters UA Local 9.
7. On or about August 27, 2014, the above named employer, through its officers, agents and representatives required its employees sign an overbroad Confidentiality and Non-Disclosure Agreement, which limits their rights to engage in activity protected by Section 7 of the Act.
8. On or about August 29, 2014, the above named employer and its representatives discharged Ken Draper and Javier Santiago because of their activities and affiliation with the United Association of Plumbers and Pipefitters UA Local 9. By their acts the above named employer has interfered with, restrained and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act.

*Dea Luvender*  
11/30/15

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**PCC HVAC D/B/A PROFESSIONAL CLIMATE CONTROL**

Charged Party

and

**PLUMBERS AND PIPEFITTERS LOCAL UNION #9**

Charging Party

**Case 22-CA-135826**

**AFFIDAVIT OF SERVICE OF SECOND AMENDED CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on January 30, 2015, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

LEE HAVENMANN, PRESIDENT  
PCC HVAC D/B/A PROFESSIONAL  
CLIMATE CONTROL  
8E GREAT MEADOW LANE  
EAST HANOVER, NJ 07936

HOWARD A. VEX, ESQ.  
2001 ROUTE 46, STE 310  
PARSIPANNY, NJ 07054

January 30, 2015

Date

Heeral Mody, Designated Agent of NLRB

Name

Signature

# **EXHIBIT F**

# **EXHIBIT F**

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

To Julie Van Luvender, Vice President or Custodian of the Records, PCC HVAC, LLC, d/b/a  
Professional Climate Control, 8E Great Meadow Lane, East Hanover, New Jersey 07734

As requested by Bert Dice-Goldberg, Counsel for the General Counsel, Region 22, NLRB

whose address is 20 Washington Place, 5<sup>th</sup> Floor Newark, NJ 07102  
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE An Administrative Law Judge

\_\_\_\_\_ of the National Labor Relations Board

at The Veteran's Administration Building, 20 Washington Place, 5<sup>th</sup> Floor

In the City of Newark, New Jersey 07102

on the 18<sup>th</sup> day of February 20 15 at 09:30 (a.m.) ~~(p.m.)~~ or any adjourned

or rescheduled date to testify in PCC HVAC LLC d/b/a Professional Climate Control

Case 22-CA-135826

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

See Attached

In accordance with the Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.65(c) (representation proceedings), objections to the subpoena must be made by a petition to revoke and must be filed as set forth therein. Petitions to revoke must be received within five days of your having received the subpoena. 29 C.F.R. Section 102.111(b) (3). Failure to follow these regulations may result in the loss of any ability to raise such objections in court.

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

**B - 726742**

Issued at Newark, New Jersey

this 9<sup>th</sup> day of February 20 15



*[Signature]*  
Chairman, National Labor Relations Board

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena.

**RIDER TO SUBPOENA DUCES TECUM**  
**PCC HVAC, LLC d/b/a Professional Climate Control**  
**Case 22-CA-135826**

**Definitions:**

1. The word “documents” or “documents” means any existing printed, typewritten, handwritten or otherwise recorded material of whatever character, including, but not limited to, letters, correspondence, memoranda, telegrams, mailgrams, minutes, notes, statements, affidavits, agreements, summaries, records of telephone conversations, telephone bills, recordations of personal conversations, interviews or meetings, transcripts, diaries, reports, cards, contracts, calendars, interoffice communications, books, records, tax records, bookkeeping and/or accounting work papers, cancelled checks, accounts, accounts receivable records ledgers, journals, purchase orders, invoices, bills of lading, billing slips, delivery records, receiving records, photographs, microfilm, audio or video tapes, video tapes, text messages, computer tapes, disks or external drives and electronic mail, and all data contained thereon that may be retrieved, including material stored on hard drives, and any carbon, photographic or other duplicate copy of such material in the possession of, control of, or available to the subpoenaed party or any attorney, agent, representative or other person acting in cooperation with, in concert with, or on behalf of the subpoenaed party.
2. The word “person” or “persons” means natural persons, corporation(s), partnership(s), sole proprietorship(s), association(s), or any other kind of entity.
3. The “Respondent” means PCC HVAC, LLC d/b/a Professional Climate Control and all other related companies, entities and/or organizations.
4. Unless otherwise stated, each item requested in the subpoena covers the period from May 1, 2014 to the present.
5. Whenever used herein, the singular shall be deemed to include the plural and vice versa; the present tense shall be deemed to include the past tense and vice versa; references to the parties shall be deemed to refer to any and all of their owners, officers, representatives and agents; and the masculine shall be deemed to include the feminine and vice versa; the disjunctive “or” shall be deemed to include the conjunctive “and” and vice versa; and the words

“each,” “every,” “any” and “all” shall be deemed to include each of the other words.

6. This subpoena is intended to cover all documents that are in your possession, custody or control, as well as your present or former agents, attorneys, accountants, advisors, investigations and any other persons or companies directly or indirectly employed by, or connected with you.
7. As to any documents not produced in compliance with this subpoena on any ground or if any document requested was, through inadvertence or otherwise, destroyed or is no longer in your possession, please state:
  - a. the author;
  - b. the recipient;
  - c. the name of each person to whom the original or a copy was sent;
  - d. the date of the document;
  - e. the subject matter of the document; and
  - f. the circumstances under which the document was destroyed, withheld or is no longer in your possession.
8. This request is continuing in character and if additional responsive documents come to your attention following the date of production, such documents must be promptly produced.
9. This request seeks production of all documents described, including all drafts and non-identical or distribution copies.
10. The request contemplates production of responsive documents in their entirety, without abbreviation, redaction, deletion or expurgation.
11. All documents produced pursuant to this subpoena are to be organized by what subpoena paragraph each documents or documents are responsive to, and labels referring to that subpoena paragraph are to be affixed to each document or set of documents.
12. Unless otherwise noted, this subpoena does not supersede, revoke or cancel any other subpoena(s) previously issued in this proceeding.

**Documents to be Produced:**

1. Books, documents and records of Respondent, of 8E Great Meadow Lane, East Hanover, NJ 07936, showing: revenues derived by Respondent, in its operations from May 1, 2014 until the present, indicating the source and dollar amount of said revenues.
2. Books, records and documents of Respondent showing: sales of goods, supplies and services to customers or purchasers located outside the State of New Jersey from May 1, 2014 until the present. Such records should identify customers or purchasers, their respective addresses and the dollar amount of such sales.
3. Books, records and documents of Respondent showing: sales of goods, supplies and services to customers or purchasers located inside the State of New Jersey from May 1, 2014 until the present. Such records should identify customers or purchasers, their respective addresses and the dollar amount of such sales.
4. Books, records and documents of Respondent showing: purchases of goods, supplies and services from suppliers located outside the State of New Jersey from May 1, 2014 until the present. Such records to identify suppliers, their respective addresses and the dollar amount of such purchases.
5. Books, records and documents of Respondent showing: purchases of goods, supplies and services from suppliers located inside the State of New Jersey from May 1, 2014 until the present. Such records to identify suppliers, their respective addresses and the dollar amount of all such purchases.
6. Books, records and documents of Respondent, including personnel files for individuals employed by Respondent at its East Hanover, New Jersey location from May 1, 2014 to the present, showing: job applications; date of hire, layoff, discharge and recall; discipline levied, including documentation of verbal warnings and written warning notices; notice of suspension, discharge, layoff, recall and reinstatement.
7. Books, records and documents of Respondent, including weekly payroll records for individuals employed by Respondent at its East Hanover, New Jersey location and performing service, installation or maintenance work on HVAC equipment, showing: names; job classifications; dates of employment, including date of hire, and date of termination, resignation, layoff and recall or re-employment, if applicable; dates of promotion, demotion and changes in job classification; rates of pay; hours worked; overtime hours worked and amount of pay from May 1, 2014 to the present.

8. The identities of Respondent's owners, shareholders, officers, investors, managers and supervisors.

9. Books, records and documents of Respondent, including copies of the Confidentiality and Non-disclosure Agreements distributed to and signed by Respondent's employees from May 1, 2014 to the present.

10. Books, records and documents of Respondent including, copies of e-mail and text messages sent by Respondent to the individuals employed at its East Hanover, New Jersey facility during the week of August 18, 2014.

11. Books, records and documents of Respondent, including Global Positioning System records, herein GPS, and Start/Stop reports for individuals employed by Respondent at its East Hanover, New Jersey location utilizing Respondent's vehicles, vans or trucks showing: name of driver, vehicle identification, moving and stopped time and location, mileage and maximum speed from May 1, 2014 to the present.

12. Books, records and documents of Respondent, including records of motor vehicle infractions and traffic accidents in Respondent's vehicles, vans or trucks of individuals employed by Respondent at its East Hanover, New Jersey location showing: names, date and location of infraction or accident and cost of said infraction or accident from May 1, 2014 to the present.

13. Books, records and documents of Respondent showing: complaints regarding the operation of Respondent's vehicles, vans or trucks directed at the individuals employed by Respondent at its East Hanover, New Jersey location from May 1, 2014 to the present.

14. Books, records and documents of Respondent showing: correspondence with the State of New Jersey, Department of Labor, Wage and Hour Division from May 1, 2014 to the present.

15. Books, records and documents of Respondent including time and attendance records for individuals employed by Respondent at its East Hanover, New Jersey location from May 1, 2014 to the present.

16. Books, records and documents of Respondent showing: work performed by Respondent and individuals employed at its East Hanover, New Jersey location, including name and address of customer, location of project and identity of employee performing such work from May 1, 2014 to the present.

17. Books, records and documents of Respondent, including contracts for work, showing: identity of party to the contract, description of work to be performed, dollar amount of work to be performed and location of work to be performed from May 1, 2014 to the present.

18. Books, records and documents of Respondent including any documents not described above upon which Respondent relied in making its decision to layoff Javier Santiago and Kenneth Draper in August, 2014.

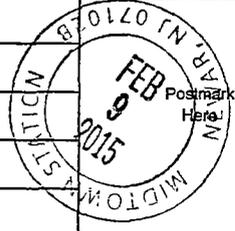
7013 3020 0001 8525 7389

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Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	



Sent To

Attn: Julie Van Luyender, Vice President or  
 Street, Apt. No., or PO Box No. Custodian of the Records  
 City, State, ZIP+4 Professional Climate Control  
 8E Great Meadow Lane

PS Form 3800, August 2010 Edition, New Jersey, Reverse for Instructions

# **EXHIBIT G**

# **EXHIBIT G**

Howard A. Vex., Esq. (N.J. Bar No: 017731991)  
**VEX & GAGE, LLC**  
Waterview Plaza  
2001 Route 46, Suite 310  
Parsippany, New Jersey 07054  
(973)402-4285

*Attorneys for PCC HVAC, LLC d/b/a  
Professional Climate Control*

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PCC HVAC, LLC d/b/a	:	UNITED STATES OF AMERICA
PROFESSIONAL CLIMATE CONTROL	:	NATIONAL LABOR RELATIONS BOARD
	:	REGION 22
	:	
and	:	
	:	Case 22-CA-135826
PLUMBERS & PIPEFITTERS	:	
LOCAL UNION #9, UA	:	

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**To: Regional Director, David E. Leech  
National Labor Relations Board, Region 22  
20 Washington Place, 5<sup>th</sup> Floor  
Newark, New Jersey 07102**

### **PETITION TO REVOKE SUBPOENA DUCES TECUM**

PCC HVAC, LLC d/b/a Professional Climate Control (hereinafter referred to as the “Employer”), by and through their counsel, Howard A. Vex, Esq., petitions the Regional Director to revoke the attached Subpoena Duces Tecum demanding responses be produced at the February 18, 2015 Unfair Practices Hearing.

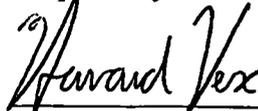
The disputed Subpoena was served on the Employer on February 11, 2015, and includes eighteen separate paragraphs commanding production of extensive documentation related to issues raised in the Employer’s Answer and Affirmative Defenses (filed on January 6, 2015). The Employer advises that it would take two to three weeks to reasonably assemble the voluminous information requested and said information cannot be compiled in the three short

business days prior to the February 18, 2015 Unfair Practices Hearing. Moreover, while the Employer has been refused any discovery of any kind throughout these proceedings, the Board has already asked for and been provided with hundreds of pages of documents and records pursuant to its prior document requests and has obtained comprehensive witness statements from the Employer's management team. This new request is unreasonable, burdensome, and oppressive.

The disputed Subpoena Duces Tecum requires the production, in general terms, of voluminous documents and records essential to the operation of the Employer's business, within only three business days (Monday is a holiday). To force the Employer's management team to essentially cease working on their business operations to respond to the disputed Subpoena would be incredibly unfair under the circumstances and would interfere with the Employer's ability to adequately prepare for the Unfair Practice Hearing. The Board has had several months to conduct their comprehensive investigation and expansive discovery, while the Employer has been denied any discovery of any kind. Forcing compliance with this latest massive document demand, just days before the Unfair Practice Hearing, is clearly contrary to the interests of justice.

For the foregoing reasons, Petitioner requests revocation of the disputed Subpoena Duces Tecum.

Respectfully submitted,

A handwritten signature in black ink that reads "Howard Vex". The signature is written in a cursive style with a large initial "H".

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Howard A. Vex, Esq.

Dated: February 12, 2015

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD

To Julie Van Luvender, Vice President or Custodian of the Records, PCC HVAC, LLC, d/b/a  
Professional Climate Control, 8E Great Meadow Lane, East Hanover, New Jersey 07734

As requested by Bert Dice-Goldberg, Counsel for the General Counsel, Region 22, NLRB

whose address is 20 Washington Place, 5<sup>th</sup> Floor Newark, NJ 07102  
(Street) (City) (State) (ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE An Administrative Law Judge

of the National Labor Relations Board

at The Veteran's Administration Building, 20 Washington Place, 5<sup>th</sup> Floor

in the City of Newark, New Jersey 07102

on the 18<sup>th</sup> day of February 20 15 at 09:30 (a.m.) ~~(P.M.)~~ or any adjourned

or rescheduled date to testify in PCC HVAC LLC d/b/a Professional Climate Control

Case 22-CA-135826

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

See Attached

In accordance with the Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings), objections to the subpoena must be made by a petition to revoke and must be filed as set forth therein. Petitions to revoke must be received within five days of your having received the subpoena. 29 C.F.R. Section 102.111(b) (3). Failure to follow these regulations may result in the loss of any ability to raise such objections in court.

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

B - 726742

Issued at Newark, New Jersey

this 9<sup>th</sup> day of February 20 15



*Paul H. Rame*  
Chairman, National Labor Relations Board

NOTICE TO WITNESS. Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena.

**RIDER TO SUBPOENA DUCES TECUM**  
**PCC HVAC, LLC d/b/a Professional Climate Control**  
**Case 22-CA-135826**

**Definitions:**

1. The word “documents” or “documents” means any existing printed, typewritten, handwritten or otherwise recorded material of whatever character, including, but not limited to, letters, correspondence, memoranda, telegrams, mailgrams, minutes, notes, statements, affidavits, agreements, summaries, records of telephone conversations, telephone bills, recordations of personal conversations, interviews or meetings, transcripts, diaries, reports, cards, contracts, calendars, interoffice communications, books, records, tax records, bookkeeping and/or accounting work papers, cancelled checks, accounts, accounts receivable records ledgers, journals, purchase orders, invoices, bills of lading, billing slips, delivery records, receiving records, photographs, microfilm, audio or video tapes, video tapes, text messages, computer tapes, disks or external drives and electronic mail, and all data contained thereon that may be retrieved, including material stored on hard drives, and any carbon, photographic or other duplicate copy of such material in the possession of, control of, or available to the subpoenaed party or any attorney, agent, representative or other person acting in cooperation with, in concert with, or on behalf of the subpoenaed party.
2. The word “person” or “persons” means natural persons, corporation(s), partnership(s), sole proprietorship(s), association(s), or any other kind of entity.
3. The “Respondent” means PCC HVAC, LLC d/b/a Professional Climate Control and all other related companies, entities and/or organizations.
4. Unless otherwise stated, each item requested in the subpoena covers the period from May 1, 2014 to the present.
5. Whenever used herein, the singular shall be deemed to include the plural and vice versa; the present tense shall be deemed to include the past tense and vice versa; references to the parties shall be deemed to refer to any and all of their owners, officers, representatives and agents; and the masculine shall be deemed to include the feminine and vice versa; the disjunctive “or” shall be deemed to include the conjunctive “and” and vice versa; and the words

“each,” “every,” “any” and “all” shall be deemed to include each of the other words.

6. This subpoena is intended to cover all documents that are in your possession, custody or control, as well as your present or former agents, attorneys, accountants, advisors, investigators and any other persons or companies directly or indirectly employed by, or connected with you.
7. As to any documents not produced in compliance with this subpoena on any ground or if any document requested was, through inadvertence or otherwise, destroyed or is no longer in your possession, please state:
  - a. the author;
  - b. the recipient;
  - c. the name of each person to whom the original or a copy was sent;
  - d. the date of the document;
  - e. the subject matter of the document; and
  - f. the circumstances under which the document was destroyed, withheld or is no longer in your possession.
8. This request is continuing in character and if additional responsive documents come to your attention following the date of production, such documents must be promptly produced.
9. This request seeks production of all documents described, including all drafts and non-identical or distribution copies.
10. The request contemplates production of responsive documents in their entirety, without abbreviation, redaction, deletion or expurgation.
11. All documents produced pursuant to this subpoena are to be organized by what subpoena paragraph each documents or documents are responsive to, and labels referring to that subpoena paragraph are to be affixed to each document or set of documents.
12. Unless otherwise noted, this subpoena does not supersede, revoke or cancel any other subpoena(s) previously issued in this proceeding.

**Documents to be Produced:**

1. Books, documents and records of Respondent, of 8E Great Meadow Lane, East Hanover, NJ 07936, showing: revenues derived by Respondent, in its operations from May 1, 2014 until the present, indicating the source and dollar amount of said revenues.
2. Books, records and documents of Respondent showing: sales of goods, supplies and services to customers or purchasers located outside the State of New Jersey from May 1, 2014 until the present. Such records should identify customers or purchasers, their respective addresses and the dollar amount of such sales.
3. Books, records and documents of Respondent showing: sales of goods, supplies and services to customers or purchasers located inside the State of New Jersey from May 1, 2014 until the present. Such records should identify customers or purchasers, their respective addresses and the dollar amount of such sales.
4. Books, records and documents of Respondent showing: purchases of goods, supplies and services from suppliers located outside the State of New Jersey from May 1, 2014 until the present. Such records to identify suppliers, their respective addresses and the dollar amount of such purchases.
5. Books, records and documents of Respondent showing: purchases of goods, supplies and services from suppliers located inside the State of New Jersey from May 1, 2014 until the present. Such records to identify suppliers, their respective addresses and the dollar amount of all such purchases.
6. Books, records and documents of Respondent, including personnel files for individuals employed by Respondent at its East Hanover, New Jersey location from May 1, 2014 to the present, showing: job applications; date of hire, layoff, discharge and recall; discipline levied, including documentation of verbal warnings and written warning notices; notice of suspension, discharge, layoff, recall and reinstatement.
7. Books, records and documents of Respondent, including weekly payroll records for individuals employed by Respondent at its East Hanover, New Jersey location and performing service, installation or maintenance work on HVAC equipment, showing: names; job classifications; dates of employment, including date of hire, and date of termination, resignation, layoff and recall or re-employment, if applicable; dates of promotion, demotion and changes in job classification; rates of pay; hours worked; overtime hours worked and amount of pay from May 1, 2014 to the present.

8. The identities of Respondent's owners, shareholders, officers, investors, managers and supervisors.

9. Books, records and documents of Respondent, including copies of the Confidentiality and Non-disclosure Agreements distributed to and signed by Respondent's employees from May 1, 2014 to the present.

10. Books, records and documents of Respondent including, copies of e-mail and text messages sent by Respondent to the individuals employed at its East Hanover, New Jersey facility during the week of August 18, 2014.

11. Books, records and documents of Respondent, including Global Positioning System records, herein GPS, and Start/Stop reports for individuals employed by Respondent at its East Hanover, New Jersey location utilizing Respondent's vehicles, vans or trucks showing: name of driver, vehicle identification, moving and stopped time and location, mileage and maximum speed from May 1, 2014 to the present.

12. Books, records and documents of Respondent, including records of motor vehicle infractions and traffic accidents in Respondent's vehicles, vans or trucks of individuals employed by Respondent at its East Hanover, New Jersey location showing: names, date and location of infraction or accident and cost of said infraction or accident from May 1, 2014 to the present.

13. Books, records and documents of Respondent showing: complaints regarding the operation of Respondent's vehicles, vans or trucks directed at the individuals employed by Respondent at its East Hanover, New Jersey location from May 1, 2014 to the present.

14. Books, records and documents of Respondent showing: correspondence with the State of New Jersey, Department of Labor, Wage and Hour Division from May 1, 2014 to the present.

15. Books, records and documents of Respondent including time and attendance records for individuals employed by Respondent at its East Hanover, New Jersey location from May 1, 2014 to the present.

16. Books, records and documents of Respondent showing: work performed by Respondent and individuals employed at its East Hanover, New Jersey location, including name and address of customer, location of project and identity of employee performing such work from May 1, 2014 to the present.

17. Books, records and documents of Respondent, including contracts for work, showing: identity of party to the contract, description of work to be performed, dollar amount of work to be performed and location of work to be performed from May 1, 2014 to the present.

18. Books, records and documents of Respondent including any documents not described above upon which Respondent relied in making its decision to layoff Javier Santiago and Kenneth Draper in August, 2014.